

FACT SHEET

NURSE PRACTICE ACT FACTS

June 4, 2004

Prepared For: Health and Human Services Interim Committee

Prepared By: Laura Poe

Act Name: Nurse Practice Act.

Title 58, Chapter 31b, Utah Code Annotated 1953

Summary of Act: Health Care Assistant, Geriatric Care Manager, the practice as a health care assistant, practice of nursing, practice of nurse anesthesia, practice of practical nursing, practice of registered nursing, and the practice of advanced practice registered nursing are defined in 58-31b-102. The law reads:

- (9) "Health care assistant" means an individual who:
 - (a) engages in the practice of a health care assistant; and
 - (b) is subject to registration under this chapter and is not subject to registration, licensure, or certification under any other chapter of this title.
- (10) "Geriatric care manager" means a licensed practical nurse who has had additional training in long-term care nursing and holds a current, valid certificate of completion from a training course approved by the division in collaboration with the board, and is certified by the division as a Licensed Practical Nurse - Geriatric Care Manager.
- (13) "Practice as a health care assistant" means providing direct personal assistance or care for compensation to an individual who is ill, injured, infirm, developmentally or physically disabled, mentally disabled, or mentally retarded, and who is in a private residence or regulated facility.
- (14) "Practice of geriatric care management":
 - (a) means a licensed practical nurse with specialized knowledge of geriatric and chronically ill patients residing in a long-term care facility as provided in Subsection 58-31b-302(2); and

- (b) includes an expanded scope of practice which may include:
 - (i) implementing a plan of care;
 - (ii) completing an assessment and evaluation of response to treatment; and
 - (iii) other tasks and skills as defined by division rule.
- (15) "Practice of nursing" means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment. The practice of nursing requires substantial specialized or general knowledge, judgment, and skill based upon principles of the biological, physical, behavioral, and social sciences, and includes:
 - (a) initiating and maintaining comfort measures;
 - (b) promoting and supporting human functions and responses;
 - (c) establishing an environment conducive to well-being;
 - (d) providing health counseling and teaching;
 - (e) collaborating with health care professionals on aspects of the health care regimen;
 - (f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee; and
 - (g) delegating nurse interventions that may be performed by others and are not in conflict with this chapter.
- (16) (a) "Practice of nurse anesthesia" means the practice of nursing related to the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a physician, surgeon, or other licensed professional, who is acting within the scope of their practice, by a person licensed under this chapter as a certified registered nurse anesthetist and includes:
 - (i) preanesthesia preparation and evaluation including:
 - (A) performing a preanesthetic assessment of the patient;
 - (B) ordering and evaluating appropriate lab and other studies to determine the health of the patient; and
 - (C) selecting, ordering, or administering appropriate medications;
 - (ii) anesthesia induction, maintenance, and emergence, including:
 - (A) selecting and initiating the planned anesthetic technique;
 - (B) selecting and administering anesthetics and adjunct drugs and fluids; and
 - (C) administering general, regional, and local anesthesia;
 - (iii) postanesthesia follow-up care, including:
 - (A) evaluating the patient's response to anesthesia and implementing corrective actions; and

- (B) selecting, ordering, or administering the above medications and studies; and
 - (iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:
 - (A) emergency airway management;
 - (B) advanced cardiac life support; and
 - (C) the establishment of peripheral, central, and arterial invasive lines.
 - (b) Nothing in this section shall be construed as to require a certified registered nurse anesthetist to obtain an advance practice registered nurse license in order to select, administer, or provide preoperative, intraoperative, or postoperative anesthesia care and services.
- (17) "Practice of practical nursing" means the performance of nursing acts in the generally recognized scope of practice of licensed practical nurses as defined by rule and as provided in this Subsection (17) by a person licensed under this chapter as a licensed practical nurse and under the direction of a registered nurse, licensed physician, or other specified health care professional as defined by rule. Practical nursing acts include:
 - (a) contributing to the assessment of the health status of individuals and groups;
 - (b) participating in the development and modification of the strategy of care;
 - (c) implementing appropriate aspects of the strategy of care;
 - (d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and
 - (e) participating in the evaluation of responses to interventions.
- (18) "Practice of registered nursing" means performing acts of nursing as provided in this Subsection (18) by a person licensed under this chapter as a registered nurse within the generally recognized scope of practice of registered nurses as defined by rule. Registered nursing acts include:
 - (a) assessing the health status of individuals and groups;
 - (b) identifying health care needs;
 - (c) establishing goals to meet identified health care needs;
 - (d) planning a strategy of care;
 - (e) prescribing nursing interventions to implement the strategy of care;
 - (f) implementing the strategy of care;
 - (g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;
 - (h) evaluating responses to interventions;
 - (i) teaching the theory and practice of nursing; and
 - (j) managing and supervising the practice of nursing.
- (19) "Practice of advanced practice registered nursing" means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with

professionally recognized preparation and education standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. Advanced practice registered nursing includes:

- (a) maintenance and promotion of health and prevention of disease;
- (b) diagnosis, treatment, correction, consultation, and referral for common health problems; and
- (c) prescription or administration of prescription drugs or devices including:
 - (i) local anesthesia;
 - (ii) schedule IV-V controlled substances; and
 - (iii) schedule II-III controlled substances in accordance with a consultation and referral plan.

*Note: Certified Nurse Midwives (CNM), although nurses, are regulated under Title 58-44a.

Requirements for Licensure:

All applicants must submit an application (including three finger-print cards), pay a fee, complete a criminal background check (all licenses/registrations are conditionally issued pending the results of the background check), and meet with the Board upon request. Nurse applicants must also document completion of an approved nursing education program and successful passing of a national examination. Licenses/registrations renew on a two-year cycle. Licensed Practical Nurses (LPN), Certified Registered Nurse Anesthetists (CRNA) and Advanced Practice Registered Nurses (APRN) expire on January 31 of even-numbered years; Registered Nurses (RN) expire on January 31 of odd-numbered years; and Health Care Assistants expire on November 30 of even-numbered years.

DOPL Licensing Information:

Applications processed during fiscal year 2004:

Licensed Practical Nurse:	758
Registered Nurse:	1,564
Advanced Practice Registered Nurse:	53
Certified Registered Nurse Anesthetist:	21
Health Care Assistant:	1,556

*Note: the subcategory of LPN-Geriatric Care Manager was enacted during the 2004 Legislative Session as a pilot program that does not become effective until July 1, 2004.

Number of Licensees by Classification:

Licensed Practical Nurse:	3,182
Registered Nurse:	18,254
Advanced Practice Registered Nurse:	903

Certified Registered Nurse Anesthetist:	179
Health Care Assistant:	8,984

Total number of licensees/registrants in all classifications: 31,502

Exemptions from Licensure/Registration:

Exemptions from licensure/registration include those listed in 58-1-307, and the following listed in 58-31b-308 and 58-31b-308.5:

58-31b-308. Exemptions from licensure or registration.

- (1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts included within the definition of the practice of nursing, subject to the stated circumstances and limitations, without being licensed under this chapter:
 - (a) friends, family members, foster parents, or legal guardians of a patient performing gratuitous nursing care for the patient;
 - (b) persons providing care in a medical emergency;
 - (c) persons engaged in the practice of religious tenets of a church or religious denomination; and
 - (d) after July 1, 2000, a person licensed to practice nursing by a jurisdiction that has joined the Nurse Licensure Compact to the extent permitted by Section 58-31c-102.
- (2) Notwithstanding Subsection (1)(d), the division may, in accordance with Section 58-31c-102, limit or revoke practice privileges in this state of a person licensed to practice nursing by a jurisdiction that has joined the Nurse Licensing Compact.
- (3) In addition to the exemptions from licensure under Section 58-1-307, the following individuals may engage in acts or practices included in the practice of a health care assistant, within the stated limitations, without being registered under this chapter:
 - (a) an individual providing gratuitous care for another individual;
 - (b) a volunteer, whether or not he receives token compensation other than salary or wages:
 - (i) in programs sponsored or authorized by federal Public Law 93-113; or
 - (ii) at any regulated facility; and
 - (c) individuals providing:
 - (i) services generally considered independent living activities such as preparing meals, shopping for personal items or groceries, managing money, using the telephone, performing housekeeping, and other similar activities not involving direct personal assistance and care as the division may define by rule; and

- (ii) child day care or baby-sitting, whether or not the services are subject to licensure under Title 26, Chapter 39, Utah Child Care Licensing Act;
- (d) an individual employed on an intermittent basis to provide a specified limited period of care for an adult or child with disabilities needing regular daily care, in order to allow the relative or other person who is the adult or child's regular and unpaid caretaker respite from his or her caregiving duties regarding the adult or child; or
- (e) notwithstanding Subsection 58-31b-102(11) an individual employed by another person who is self directing his personal care in his private residence.

58-31b-308.5. Health assistant registration - Classifications - Temporary employment prior to registration.

- (1) An individual may temporarily engage in practice as a health care assistant for not more than ten consecutive days immediately after being initially employed in the state as a health care assistant, without having submitted a registration application under this chapter. The registration application shall be postmarked not later than the last day of the ten consecutive days referred to in this Subsection (1).
- (2) An individual may not practice as a health care assistant in this state for more than ten days without having submitted an application for registration.
- (3) If the application for registration is denied, the applicant shall cease practice in this state as a health care assistant upon receipt of notice of the denial.

Laws and Rules:

The most recent law change occurred in May of 2004, which established the criteria for certification as an LPN-Geriatric Care Manager. The law change also exempts individuals working in a regulated facility from registration as a Health Care Assistant. The rules implementing this Act are found in Title R156. Chapter 31b. The rules were last amended in November of 2002.

Board of Nursing:

The Board is composed of eleven members, nine nurses and two members of the public. The nurse board members are further defined in rule to be six RNs (two of whom must be actively involved in nursing education), one LPN, two APRNs or CRNAs. The statute mandates that the Division Director appoint a staff member to be the Executive Administrator of the Board, who is also serves as an ex officio member of the Board. The Executive Administrator must be a Registered Nurse with the minimum of a master's degree. The Board meets every month on the last Friday of the month. Due to a

high volume of issues, probationary interviews, and disciplinary hearings, the Board has also been meeting on the last Thursday of the month.

Investigations:

Nurses

Complaints received in fiscal year 2004: 226

Complaints currently open: 82

Complaints closed in fiscal year 2004: 263

Disposition of Closed Complaints in fiscal year 2004:

Admin. Sanction w/ criminal filing - misdemeanor:	3
Administrative Sanction – Informal:	2
Administrative Sanction – After Hearing:	10
Administrative Sanction – Cease and Desist:	1
Administrative Sanction – Default:	2
Administrative Sanction – Hearing	1
Administrative Sanction – MOU:	7
Administrative Sanction – Stipulation	60
Consolidation to another case:	12
Criminal filing - felony:	3
Intelligence filed:	11
Lack of evidence:	7
Letter of concern:	40
No jurisdiction:	6
Referral to Diversion:	9
Referral to another agency:	5
Unfounded:	53
Verbal warning:	17
Voluntary compliance:	9

Health Care Assistant

Complaints received in fiscal yr 2004: 33

Complaints currently open: 13

Complaints closed in fiscal year 2004: 30

Disposition of Closed Complaints in fiscal year 2004:

Administrative Sanction - Stipulation:	5
Intelligence filed:	3
Lack of evidence:	1

Letter of concern:	4
No jurisdiction:	3
Unfounded:	9
Verbal warning:	2
Voluntary compliance:	2

Contact Information:

Please contact Laura Poe, Executive Administrator, Board of Nursing, Assistant Director, DOPL at (801) 530-6789 or email at lpoe@utah.gov for further information.